



RIGHTS STUFF

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Woman Loses National Origin and Religion Discrimination Case

Hasina Akila Haken Bey began working as a clerk for the emergency room of John H. Stroger Hospital in Cook County in 2008. (Her legal name is Ronia Sims-Cammon, but she said she had begun using the Bey name, which she called her holy name, in 2006 after she converted to Islam.)

Bey called in sick for two weeks in January, 2009. The hospital said that she was working on changing her name legally to Bey during that time. She tried to go back to work on January 13, but was not allowed to do so until she provided the proper medical certification. She obtained the proper documentation and called HR to discuss her status. She said that HR director, Cecil Marchand, harassed her on the phone "and purposefully mispronounced her holy name." She filed a discrimination complaint with the Illinois Department of Human Rights and with the U.S. Equal Employment Opportunity Commission (EEOC).

On January 16, she requested an employee ID card with her holy name on it, presenting paperwork about her name change that she had filed with the Recorder of Deeds. HR gave her a new ID card but then realized that the Recorder of Deeds paperwork did not establish that Bey had legally changed her name. They

deactivated her new ID card and told her she needed to get a new ID card with her legal name on it.

Bey worked two days without an active ID card. When her supervisor found this out, he sent her to HR to clear up her situation. What happened there was subject to considerable dispute.

Bey said that Marchand, the HR director, told her she had to remove her religious headdress. When she refused to do so, he fired her. She said they argued for at least 15 minutes in front of other employees, and claimed that Marchand tapped her on her face with her ID card. Then, she said, Marchand took her back to a conference room and told her she had to take her new ID card with her legal name on it, the Sims-Common name, not the Bey name. He again demanded that she remove her headdress and again said she was fired. He called security to remove her from the premises.

HR said that when Bey went to HR, Marchand told her she needed to surrender her ID card with her holy name, as she had not provided documentation that she had legally changed her name to Bey. She refused to do so, became unruly and was escorted out

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Teri Guhl

Mayor

Mark Kruzan

Corporation Counsel

Margie Rice

BHRC
PO BOX 100
Bloomington IN
47402
349.3429
human.rights@
bloomington.in.gov



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by security. Marchand denied asking Bey to remove her head-dress, denied telling her she was fired and denied taking her back to the conference room.

The hospital said that Bey was still on the work schedule, but did not return to work after her encounter with Marchand. On February 2, the hospital sent her a letter saying that she had not shown up to work or called in for more than five days. The letter said that her actions constituted work abandonment, and that she could be terminated if she did not call the hospital by February 4. The

hospital said that Bey called and was told that she had not been fired and that she could return to work. She replied, according to the hospital, that she would see them in court. She never returned to work and was fired on February 20 for abandoning her job.

Bey sued and lost.

The Court noted that there were major discrepancies between what Bey said in her court filing and what she told the EEOC and the IDHR when she filed her original complaints. In her original complaints, she said that the hospital had harassed her about her name change and religion, but

in her court filing, she said that her original ID card gave her holy name. The Court noted that she had failed to show that the hospital had any other similarly-situated employee with a different national origin or religion who was treated more favorably than she had been. And the Court noted that that Bey failed to refute the hospital's legitimate, non-discriminatory reason for firing her, namely, that she failed to report to work for more than five days without calling in.

The case is Bey aka Sims-Cammon v. Cook County, 2012 WL 5995732 (ND Ill 2012).

EEOC Finds Against Wet Seal Store

In December, the U.S. Equal Employment Opportunity Commission (EEOC) concluded that a Wet Seal Store in King of Prussia, Pennsylvania, had illegally discriminated against a former manager. Wet Seal is a national chain of women's clothing.

According to the EEOC, "corporate managers have openly stated they wanted employees who had the 'Armani look, were white, had blue eyes, thin and blond in order to be profitable.'" The EEOC said that the store fired its manager, an African American woman named Nicole Cogdell, the day after a corporate senior vice president inspected the store and several others in the area. After the inspections, the vice president

sent out an e-mail saying "African Americans dominate - huge issue." The EEOC said the store terminated several other African American managers at the same time.

Wet Seal said that Cogdell resigned and was not terminated. The EEOC found that the fact the store had terminated several other African American managers at the same time, combined with the fact that Cogdell had seen the vice-president's e-mail, created a hostile work environment that forced her to quit. The EEOC said this was "tantamount to a discharge." Before Cogdell left her job, she had received high ratings for running the store, which was

ranked number eight among Wet Seal's more than 500 stores. Her immediate supervisors had said that she had "great energy" and "a strong ability" to hold subordinates accountable.

Wet Seal said that it is working on "an extensive program designed to continue to promote diversity" and protect against discrimination.

The EEOC said that it hopes to negotiate a just settlement. Cogdell said that she hopes to get her case certified as a class action, which would combine her case with the approximately 20 other discrimination cases that former employees have filed against Wet Seal.



Fair Employment Laws May Protect People Who Experience Domestic Violence, Sexual Assault or Stalking

The U.S. Equal Employment Opportunity Commission recently said that laws that prohibit discrimination in employment on the basis of sex or disability may protect people who have experienced domestic violence, sexual assault or stalking. Some examples the EEOC gives:

- If an employer fired a woman after learning she had been subjected to domestic violence, saying he wanted to avoid "the drama battered women bring to the workplace," that might be sex discrimination in employment.
- If a supervisor refused to hire a man after learning that he had obtained a restraining order against a

male domestic partner, because he believes that only women can be true victims of domestic violence, that might be sex discrimination in employment.

- If an employer allows a man to use unpaid leave for a court appearance in the criminal prosecution of an assault by a stranger, but doesn't allow a woman to do the same when she experienced domestic violence because he believes that an assault by a stranger is a "real crime" while domestic violence is "just a marital problem," that might constitute sex discrimination in employment.
- If an employer refuses to allow an employee time off for treat-

ment for depression caused by a sexual assault in her home because she has not accrued sick time, that might constitute disability discrimination in employment. The Americans with Disabilities Act requires employers to provide reasonable accommodations to employees with disabilities, and unpaid time off beyond what the personnel policy requires may be a reasonable accommodation in some cases.

The EEOC's memo may be found on-line at www.eeoc.gov/eeoc/publications/ga_domestic_violence.cfm.

If you have questions about fair employment laws, please contact the BHRC.

Does the ADA Require California Cities to Allow Marijuana Dispensaries?

Several California residents with severe disabilities used medical marijuana to alleviate their pain. This type of medical marijuana is permitted under California law. They live in two cities, Costa Mesa and Lake Forest, that are taking steps to close the marijuana dispensing facilities within their borders. The residents sued, saying that closing down these facilities was a form of discrimination in public accommodations on the basis of their disabilities in violation of the Americans with Disabilities Act (ADA). They lost.

The ADA says that the "term individual with a disability does not include an individual who is currently engaging in the illegal use of drugs." Medical marijuana is legal under California law, but it is illegal under federal law, and the Court said that is what controls for purposes of the ADA. The plaintiffs argued that since their marijuana was prescribed by a health care professional, it was not "illegal" under the ADA. But the Court said that such an interpretation was at odds with the explicit language of the ADA, which relies on federal and not

state law when determining what drugs are "illegal."

The case is James v. City of Costa Mesa, 684 F. 3d 825 (9th Cir. 2012). The final decision on these types of cases might be up to the Supreme Court or to the Obama administration as it reviews its policies in light of more states allowing medical marijuana or decriminalizing marijuana all together.



City Reminds Residents to Keep Sidewalks, Ramps Clear of Snow

The City of Bloomington Housing and Neighborhood Development Department (HAND) reminds you to keep your sidewalks, including walks and ramps leading to crosswalks, clear for pedestrian safety during the winter months.

Under the Bloomington Municipal Code, property owners must remove snow and ice from their sidewalks within 24 hours following the accumulation of snow or ice. Not complying with this ordinance could result in significant injuries to pedestrians commuting throughout the community and potential fines for property owners.

Tips for removing snow and ice from sidewalks include the following:

- Shovel carefully. Do not lift too much or you may strain your back.
- Clear the snow down to the sidewalk surface. If snowfall begins with a layer of ice, residents may want to consider spreading sand or cinders to help remove the ice and aid in traction.
- Break away heavy ice with an ice chipper or straight edge hoe. Deep digging may result in damage to the sidewalk.
- A good shovel with an ergonomic handle is a valuable tool when attempting to clear snow or ice.

HAND also reminds residents to plan ahead. Those leaving Bloomington for vacations should make arrangements to ensure their walks are kept clear. Residents with health concerns should talk to neighbors, neighborhood associations or faith groups about receiving assistance. The City also would like to remind residents that keeping sidewalks and ramps clear of snow and ice is especially important for our neighbors with mobility-related issues.

"Civil Rights in Monroe County" Exhibit Now Open at Monroe County History Center

The Monroe County History Center opened a new exhibit in November on the topic of Civil Rights in Monroe County. It includes interviews with people who lived in Monroe County in the 1950s, 1960s and 1970s, talking about the discrimination they encountered then and what they did to combat it.

Some of the people and topics discussed in the exhibit:

- Preston Eagleson, the first African American to play football and baseball at IU and the first to earn a master's degree at IU;
- Wilbert Miller, who fought for fair housing in Monroe County;
- The Reverend Ernie Butler, who helped create a Fair housing Commission in Bloomington as well as the Bloomington Human Rights Commission;
- Herman B. Wells, former chancellor at IU and a passionate advocate for civil rights; and
- People's Park, a location which housed a store that catered to African American customers before it was burned down, possibly by an arsonist, in the 1960s.

The exhibit runs through April 27. The Monroe County History Center is located at the corner of Sixth and Washington Streets in Bloomington and is open from 10 to 4, Tuesday through Saturday.

(Article based on "Telling Their Story: Civil Rights Exhibit Tells of its History in Monroe County," by Jessica Williams, Bloomington Herald-Times, 1/13/13, page D-1.)